

**RESULTS OF INVESTIGATION:** The accompanying leaflets and mimeographed sheets were used by the dealer in promoting the sales of the article. The Kelp-Ettes had been prepared and entabled by the dealer using a portion of the bulk powder.

**LIBELED:** 10-10-61, N. Dist. Ind.

**CHARGE:** 403(a)—while held for sale, the accompanying labeling of the article contained false and misleading representations that the article may be consumed with safety in any amount, that the article was of unusual benefit for special dietary supplementation as a source of minerals, vitamins and trace elements; and that the ordinary individual requires daily food supplementation.

The libel alleged also that the article was misbranded under provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7404.

**DISPOSITION:** On 12-21-61, Carl A. Nelson, owner and operator of Nelson's Natural Foods, filed an answer consenting to a decree. On 1-24-62, a consent decree of condemnation was entered. On 2-7-62, the articles were released under a \$500 bond to the claimant for the purpose of bringing the article into compliance with the law. On 9-20-62, a motion was filed to declare forfeiture of bond, which motion was based upon claimant's failure to keep the seized lot intact for examination and inspection, in that claimant made 3 shipments of sea kelp without notification to, or authorization from, a representative of the Department of Health, Education, and Welfare. On 10-25-62, the Government's motion was argued before the court and the court declared the bond forfeit. On 10-31-62, a decree of forfeiture was filed.

**29299. Vitamin and mineral capsules.** (F.D.C. No. 49121. S. Nos. 77-861/5 V.)

**QUANTITY:** 232 100-capsule btls. of Prenatal vitamin and mineral capsules, 349 50-cc. btls. of Polyvitamin Drops, 307 100-capsule btls. of Geriatric capsules, 404 100-capsule btls. of vitamin and mineral capsules, and 430 100-capsule btls. of Multi-Vitamin Therapeutic capsules, at Toledo, Ohio.

**SHIPPED:** Prior to 1-1-60, from Detroit, Mich., by Family Vitamin Co., Inc.

**LABEL IN PART:** (Btl.) "Prenatal Vitamin and Mineral Distributed by Family Vitamin Co., Inc. \* \* \* Detroit 4, Michigan, \* \* \* Each capsule contains \* \* \* Vitamin B<sub>1</sub> 1 Mg."; "Polyvitamin Drops \* \* \* Fruit Flavored For Infants & Children \* \* \* 0.6 cc. (\* \* \*) provides \* \* \* Thiamine (B<sub>1</sub>) 1 Mg. \* \* \* Dist. by Family Vitamin Co., Inc. \* \* \* Detroit 4, Mich," "Geriatric Distributed by Family Vitamin Co., Inc. \* \* \* Detroit 4, Michigan, \* \* \* Each capsule contains \* \* \* Vitamin B<sub>1</sub> 5 Mg.," "Vitamin and Mineral Distributed by Family Vitamin Co., Inc., \* \* \* Detroit 4, Michigan \* \* \* Each capsule contains \* \* \* Folic Acid U.S.P. 0.34 Mg.," and "Multi-Vitamin Therapeutic Distributed by Family Vitamin Co., Inc. \* \* \* Detroit 4, Michigan \* \* \* Each capsule contains \* \* \* Vitamin B<sub>1</sub> 10 Mg."

**RESULTS OF INVESTIGATION:** Analysis showed that the Prenatal vitamin and mineral capsules contained approximately 75 percent; Polyvitamin Drops contained approximately 35 percent; Geriatric capsules contained approximately 70 percent; and the Multi-Vitamin Therapeutic capsules contained approximately 75 percent of the declared amount of vitamin B<sub>1</sub>.

**LIBELED:** 7-24-63, N. Dist. Ohio.

**CHARGE:** Prenatal vitamin and mineral capsules, Polyvitamin Drops, Geriatric capsules and Multi-Vitamin Therapeutic capsules; 402(b)(1)—while held for sale, the valuable constituent of the article, namely, vitamin B<sub>1</sub>, had been in part omitted, or abstracted from the article; 403(a)—the label statements "Each capsule contains \* \* \* Vitamin B<sub>1</sub> 1 Mg.," "A daily dose of 0.6 cc. \* \* \* provides \* \* \* Thiamine (B<sub>1</sub>) 1 Mg.," "Each capsule contains \* \* \* Vitamin B<sub>1</sub> 5 Mg." and "Each capsule contains \* \* \* Vitamin B<sub>1</sub> 10 Mg.," were false and misleading;

Vitamin and mineral capsules: 402(a)(2)(C)—while held for sale, the article contained a food additive, namely, folic acid, which was unsafe within the meaning of 409 since it and its use and intended use were not in conformity with a regulation or exemption in effect pursuant to law;

Prenatal vitamin and mineral capsules: 403(j)—when shipped, the article purported to be and was represented as a food for special dietary use, by reason of its mineral content and its label failed to bear as required by regulations a statement of the proportion of the minimum daily requirements for pregnant or lactating women for calcium, phosphorous, and iron supplied by such food when consumed in a specified quantity during a period of one day; and

Geriatric capsules: 403(a)—when shipped, the labeling of the article contained false and misleading representations that the article was of unusual value for special dietary supplementation because the nutritional requirements of the elderly were different from those of adults generally.

**DISPOSITION:** 8-26-63. Default—destruction.

**29300. Ellis Vivo-Tone.** (F.D.C. No. 47740. S. Nos. 14-231/3 T.)

**QUANTITY:** 271 100-capsule btls. of a dietary supplement, 43 100-capsule btls. of lecithin, and 266 100-tablet btls. of alfalfa, at Chicago, Ill., in possession of Ellis Research Laboratories, Inc.

**SHIPPED:** 6-19-59 and 7-27-59, from Oak Park, Mich.

**LABEL IN PART:** (Btl.) "9 Ellis Vivo-Tone A Dietary Supplement \* \* \* Essential Unsaturated Fatty Acids As Present in Safflower Oil Plus Vitamin B-6 \* \* \* Control No. 45924; ["10 Vivo-Tone \* \* \* Lecithin With Safflower Oil \* \* \* Control No. 2421"; or "11 Ellis Vivo-Tone \* \* \* Alfalfa 10 gr. Tablets \* \* \* Control No. 3960"] Available only through doctors who provide Micro-Dynameter Analysis \* \* \* Distributed by Ellis Research Labs., Inc., Chicago 11, Illinois."

**ACCOMPANYING LABELING:** Booklets entitled "An Introduction To Vivo-Tone, A research paper submitted for the exclusive use of Micro-Dynameter users."

**RESULTS OF INVESTIGATION:** The articles were shipped in bulk lots which were subsequently repacked by the dealer into bottles described above.

**LIBELED:** 7-26-62, N. Dist. Ill.

**CHARGE:** 403(j)—the articles purported to be and were represented as special dietary foods and their labels failed to bear, as required by regulations, a statement of the dietary properties upon which such use was based.

The libel alleged also that the articles were misbranded under the provisions of the Act relating to drugs as reported in notices of judgment on drugs and devices, No. 7437.

**DISPOSITION:** 9-10-62. Default—destruction.